

CrR 5. INITIAL APPEARANCE BEFORE THE MAGISTRATE JUDGE

(a) In General.

(1) *Notice of Arrest.* Any agency or person who holds any person in this district on federal criminal charges shall so advise the U.S. Marshal without unnecessary delay. Except with respect to federal parole violations, after receiving notice or other knowledge during business hours of any such federal arrestee or person held on federal charges anywhere in the district, the marshal shall give telephonic notice without unnecessary delay of the date of federal arrest or custody to the courtroom deputy or other designated staff member for the appropriate magistrate judge who will conduct the initial appearance;

(A) After receiving notice from the U.S. Marshal, the courtroom deputy or other designated staff member for the appropriate magistrate judge shall give telephonic notice without unnecessary delay to:

- i. The U.S. Attorney's Office general crimes unit supervisor for all cases;
- ii. During business hours, the U.S. Pretrial Services Office.

Like notice, during business hours, shall also be given by the courtroom deputy or other designated staff member to the U.S. Probation Office duty officer as to any probation, supervised release, or parole violators.

(2) *Arrest Without Warrant--48 Hour Rule.* Whenever an arrest without warrant occurs and the initial appearance will not be or is likely not to be held within 48 hours of arrest (because of the weekend or holidays or unavailability of an appropriate magistrate judge):

(A) A complaint and affidavit will be prepared and presented within 48 hours after the arrest to the appropriate magistrate judge at said judge's home or as directed by said judge. If probable cause is found, an order so finding shall be signed and defendant shall be ordered held pending the initial appearance as promptly as that hearing can be scheduled during court hours or as otherwise ordered.

(B) The initial contact with the appropriate magistrate judge shall be made by the United States Attorney or an authorized assistant who shall have either previously prepared or reviewed and approved the form and content of the complaint and affidavit.

(3) [Reserved]

(4) *Appropriate Magistrate Judge.*

The "appropriate magistrate judge" is the United States magistrate judge who would normally be expected to conduct the initial appearance; or if unavailable, any available United States magistrate judge; or if unavailable, any other magistrate judge as defined in Rule 54(c), Fed.R.Crim.P.

(b) and (c) [Reserved]

(d) Appearance of Counsel.

(1) *Appearance Prior to Arraignment.* Any appearance in court prior to arraignment obligates counsel to handle all matters up to, and to appear at, arraignment, unless relieved of said obligation as provided for in paragraphs (3) and (4). (See Local Rules, W.D.Wash., GR 2(d) re: appearances by non-W.D.Wash. attorneys.)

(2) *Appearance at Arraignment.* At arraignment, a counsel who has previously appeared may orally withdraw, and arraignment may be continued for up to two (2) weeks to allow defendant to obtain counsel. Any counsel appearing at arraignment may request up to two (2) weeks to finalize a representation agreement with defendant, and the arraignment shall be so continued. Counsel may thereafter be relieved of responsibility by filing, prior to the continued arraignment hearing and after service on defendant and the U.S. Attorney's Office, a written notice of non-representation, without the necessity of counsel appearing at said hearing; or by appearing and orally stating so on the record. Defendant must be present in all instances. Further continuances of arraignment to finalize representation may be made only upon a proper showing and by order of the judge or magistrate judge before whom the matter is pending upon due consideration of Speedy Trial rights, including the discovery, motions and trial dates, the situation with respect to any co-defendants, right-to-counsel rights, and other relevant considerations. Counsel representing a defendant when arraigned or rearraigned is obligated to handle, in the district court, all matters charged at that arraignment or rearraignment.

(3) *Stand-In Appearance.* With the agreement of defendant on the record in open court, and with court approval, another attorney may appear for defense counsel.

(4) *Relief From Representation.* Counsel may be relieved:

(A) With the approval of the judge or magistrate judge before whom the matter is pending, endorsed upon a stipulation of substitution submitted ex parte and signed by counsel, substitute counsel, and defendant; or

(B) By an order of the judge or magistrate judge before whom the matter is pending, granting counsel's written motion for withdrawal, served, filed and noted for consideration as required under Local Rule CrR 12, with the additional requirement of service upon the defendant; or

(C) By an order appointing other counsel after review of a financial affidavit

submitted by defendant pursuant to 18 U.S.C. § 3006A.

The Clerk's Office shall provide to counsel, substitute counsel, the U.S. Attorney's Office, and, when appropriate, the defendant, copies of approved stipulations, orders allowing withdrawal, and orders appointing counsel.

(e) Release From Custody--Bail/Detention.

(1) On federal criminal charges--See Local Rule CrR 46.

(2) On Probation and Supervised Release violations--See Rules 32.1(a)(1) and 46(c), Fed.R.Crim.P.

[Effective May 1, 1992; amended effective July 1, 1997; January 1, 2005.]